

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BRANDON DANIEL,	§	
Petitioner,	§	
	§	No. 1:17-cv-01069-LY
v.	§	Death penalty case
	§	Dist. Judge Lee Yeakel
BOBBY LUMPKIN, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
Respondent.	§	

RESPONDENT'S UNOPPOSED MOTION FOR AN EXTENSION
OF TIME TO RESPOND TO PETITIONER'S
RENEWED MOTION FOR DISCOVERY

On November 3, 2020, Petitioner Brandon Daniel filed a renewed motion for discovery in this habeas action. (Doc. #61). Under Local Rule CV-7(e)(2), “[a] response to a nondispositive motion shall be filed no later than 7 days after the filing of the motion.” Respondent Bobby Lumpkin (the Director) requests that the Court extend the deadline for responding for 7 days, making the new filing date November 17, 2020. In support of this unopposed motion, the Director states as follows:

Undersigned counsel for the Director filed a response in February 2019 opposing Daniel’s original motion for discovery. (Doc. # 14). The Court denied the original motion without prejudice. (Doc. #17). Daniel’s renewed motion raises new arguments and new evidence in seeking discovery, especially regarding ballistics testing. (*See generally* Doc. #61). Additional time is needed

to review the voluminous state-court and federal-habeas record in this death penalty action before responding.

Also undersigned counsel is currently working to complete a brief in opposition that is due in the United States Supreme Court on November 12th in *Howard v. Lumpkin*, No. 20-9556. Insufficient time remains to complete all the necessary work in Daniel's case in advance of the impending November 10th response deadline.

Finally, counsel has contacted Daniel's attorney, Peter Walker, who is unopposed to the requested extension.

CONCLUSION

The Court should grant the Director's unopposed motion and extend the response date for 7 days to November 17, 2020.

Respectfully submitted,

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COUNSEL FOR RESPONDENT

CERTIFICATE OF CONFERENCE

I certify that on November 6, 2020, I emailed Daniel's counsel, Peter Walker, regarding the above motion, and Mr. Walker has no opposition to the requested 7-day extension.

/s/ Katherine D. Hayes
KATHERINE D. HAYES
Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that on November 9, 2020, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel:

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